

IN THE MATTER OF : NEW JERSEY DEPARTMENT OF EDUCATION
THE CERTIFICATES OF : STATE BOARD OF EXAMINERS
THEODORE DELGROSSO : ORDER OF REVOCATION
_____ : DOCKET NO: 518-04/99-203

At its meeting of May 15, 1997, the State Board of Examiners reviewed information received from Division of Criminal Justice indicating that in 1996 Theodore DelGrosso was charged with third degree aggravated criminal sexual contact. DelGrosso had entered into a Pre Trial Intervention (PTI) program, under which he had surrendered his teaching certificates. DelGrosso's PTI agreement also provided for psychological evaluation and counseling. DelGrosso is currently the holder of Teacher of Elementary School, Teacher of Physical Education and Teacher of Health and Physical Education certificates. Upon review of the above information, at that May meeting the State Board of Examiners voted to table the matter and contact DelGrosso so that he might submit an affidavit of surrender which would comply with the Board of Examiners' requirements. Two letters were sent to DelGrosso's attorney on May 16, 1997 and February 23, 1998; no response was received to either letter. Therefore, at its meeting of April 15, 1999, the Board of Examiners voted to issue an Order to Show Cause to DelGrosso.

The Order to Show Cause was mailed to Respondent by regular and certified mail on May 4, 1999. The Order provided that if Respondent desired to file an Answer to the Order such Answer must be filed within 20 days. On May 24, 1999, DelGrosso filed an Answer. In his Answer, he admitted that he had agreed to stop teaching and surrender his teaching certificate. DelGrosso also claimed that he did not surrender his original certificates because he could not locate them. (Answer, ¶ 5). By way of mitigation, DelGrosso also argued that he had voluntarily reported his conduct when it happened and that he had worked steadily since he had resigned as a teacher. (Answer, ¶¶8-9).

Thereafter, pursuant to N.J.A.C. 6:11-3.6(a)1, on July 26, 1999, the Board of Examiners sent a hearing notice to DelGrosso by regular and certified mail. The notice explained that since it appeared no material facts were in dispute, respondent was offered an opportunity to submit written arguments on the issue of whether the conduct addressed in the Order to Show Cause constituted conduct unbecoming a

certificate holder. It also explained that upon review of the charges against him and the legal arguments tendered in his defense, the State Board of Examiners would determine if his offense warranted action against his certificate. Thereupon, the Board of Examiners would also determine the appropriate sanction, if any. On August 13, 1999, DelGrosso filed a response to the Hearing Notice. In that response, DelGrosso submitted a series of letters from his treating psychologist indicating his progress, some reference letters and copies of his transcripts. He also reiterated his claim that he had voluntarily reported his behavior and resigned his teaching job. (Hearing Response, pgs 1-2). DelGrosso also detailed his academic and professional successes. (Hearing Response, pgs. 5-7). Finally, DelGrosso contended that in light of his remorse at what he had done, his successful treatment, and his prior exemplary career as a teacher, his certificates should be suspended rather than revoked. (Hearing Response, p 7).

The threshold issue before the State Board of Examiners in this matter, therefore, is to determine whether DelGrosso's surrender of his teaching certificates as a predicate for his entry into the PTI program provides just cause for the suspension or revocation of his certificates. At its meeting of November 4, 1999, the State Board of Examiners reviewed the charges and papers filed by respondent in response to the Order to Show Cause. After review of DelGrosso's submissions, the Board of Examiners determined that no material facts regarding the issues in the Order to Show Cause were in dispute since DelGrosso admitted that he was ordered to surrender his teaching certificate. Thus, the Board of Examiners determined that summary decision was appropriate in this matter. N.J.A.C. 6:11-3.6(a)1.

The State Board of Examiners must now determine whether DelGrosso's surrender of his certificates, as a prerequisite for entry into PTI, provides just cause to act against those certificates pursuant to N.J.A.C. 6:11-3.6(a)1. We find that it does. Unbecoming conduct is a broadly defined term which includes "any conduct, which has a tendency to destroy public respect for [public] employees and competence in the operation of [public] services." Karins v. City of Atlantic City, 152 N.J. 532, 554 (1998). In the educational arena, unbecoming conduct relates to a teacher's fitness to discharge the duties and functions of the position. Laba v. Newark Board of Education, 23 N.J. 364, 384 (1957).

The State Board of Examiners may revoke or suspend the certification of any certificate holder on the basis of demonstrated inefficiency, incapacity, conduct unbecoming a teacher or other just cause. N.J.A.C. 6:11-3.4. “Teachers... are professional employees to whom the people have entrusted the care and custody of ... school children.” Tenure of Sammons, 1972 S.L.D. 302, 321. In the judgment of the Essex County Prosecutor, who demanded that DelGrosso surrender his teaching certificates as a condition for entering PTI, DelGrosso, has, by his conduct, violated that most sacred trust. The prosecutor had knowledge of the facts underlying the indictment; he deemed it imperative that DelGrosso no longer be given access to children as a teacher. The New Jersey State Board of Examiners can do no less and finds that DelGrosso has engaged in conduct unbecoming a certificate holder.

Furthermore, notwithstanding that DelGrosso has successfully completed the PTI program, the fact remains that he is alleged to have committed an indictable offense. In New Jersey, the Commissioner of Education has held that “the dismissal of a criminal indictment as a result of entering PTI is not a determination that the individual was not guilty of the conduct complained of; only that the matter was ‘adjusted.’ *R. 3:28(c)(1)*.” Gus Siciliano v. Board of Education of the Camden County Vocational-Technical School, 93 N.J.A.R. 2d (EDU) 94, 95. The United States District Court has a similar view. In Lindes v. Sutter, 621 F. Supp. 1197, 1201 (D.C.N.J. 1985), the Court stated: “In Thomas v. N.J. Institute of Technology, 178 N.J. Super. at 62, 427 A. 3d 1142, the Superior Court held that ‘acceptance in PTI, even where the program is successfully completed, cannot be regarded as the equivalent of a judgment of acquittal or an otherwise favorable termination of the criminal proceeding.’” Thus, DelGrosso’s completion of PTI only means that he has complied with the requirements of the State of New Jersey in order to avoid a criminal conviction. It does not mean that he is fit to teach in this state.

Moreover, notwithstanding DelGrosso’s contentions of rehabilitation, this is not the proper context for such considerations. The purpose of this proceeding is “to permit the individual certificate holder to demonstrate circumstances or facts to counter the charges set forth in the Order to Show Cause, not to afford an opportunity to show rehabilitation.” See, In the Matter of the Revocation of the Teaching Certificate of Gloria Jackson by the State Board of Examiners, 96 N.J.A.R. 2D (EDE) 1, 16 *aff’d* App.

Div. Dkt. No. A-1246-96T5 (September 9, 1997) citing In the Matter of the Revocation of the Teaching Certificate of James Noll, State Bd. of Examiners decision (February 7, 1990).

DelGrosso therefore cannot escape the fact that the State of New Jersey has made a reasoned decision to bar him from the classroom. The children of New Jersey deserve this protection. Consequently, the only proper remedy for DelGrosso's breach is revocation..

Accordingly, it is therefore ORDERED that Theodore DelGrosso's Teacher of Elementary School, Teacher of Physical Education and Teacher of Health and Physical Education certificates be revoked on this 4th day of November, 1999. It is further ORDERED that DelGrosso return his certificates to the Secretary of the State Board of Examiners, Office of Licensing, CN 500, Trenton, NJ 08625-0500 within fifteen (15) days of receipt of this decision.

Secretary
State Board of Examiners

Date of Mailing: January 14, 2000

Appeals may be made to the State Board of Education pursuant to the provisions of N.J.S.A. 18A:6-28.

IBG:MZ:br:theodoredelgrosso